



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2011-1095]

RIN 1625-AA08

Special Local Regulations; Patriot Challenge Kayak Race,
Ashley River, Charleston, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations on the Ashley River in Charleston, South Carolina during the Patriot Challenge Kayak Race on Saturday, April 28, 2012. Approximately 150 paddle boats are anticipated to participate in the Patriot Challenge Kayak Race. Participant paddle boats will include kayaks, canoes, and paddleboards. These special local regulations are necessary to provide for the safety of life on navigable waters of the United States during the race. The special local regulations consist of a series of moving buffer zones around participant vessels as they transit the Ashley River from Brittlebank Park to Tidewater Reach and back to Brittlebank Park. Persons and vessels that are not

participating in the race are prohibited from entering, transiting through, anchoring in, or remaining within any of the buffer zones unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: This rule is effective from 12:30 p.m. until 3:30 p.m. on April 28, 2012.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2011-1095 and are available online by going to <http://www.regulations.gov>, inserting USCG-2011-1095 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Ensign John R. Santorum, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740-3184, e-mail John.R.Santorum@uscg.mil. If you have questions on viewing the docket, call Renee V.

Wright, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On December 22, 2011, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations; Patriot Challenge Kayak Race, Ashley River, Charleston, SC in the Federal Register (76 FR 79571). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Basis and Purpose

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to insure safety of life on navigable waters of the United States during the Patriot Challenge Kayak Race.

Discussion of Rule

On Saturday, April 28, 2012, the Patriot Challenge Kayak Race is scheduled to take place on the waters of the Ashley River in Charleston, South Carolina. The race will begin at Brittlebank Park, transit southeast on the Ashley River, head north between Shutes Folly Island and the Charleston peninsula, and then turn around in Tidewater Reach. The race will return to Brittlebank Park by the

same route. Approximately 150 paddle boats are anticipated to participate in the Patriot Challenge Kayak Race.

Participant paddle boats will include kayaks, canoes, and paddleboards.

This rule establishes special local regulations on the Ashley River in Charleston, South Carolina consisting of a series of buffer zones around vessels participating in the Patriot Challenge Kayak Race. These buffer zones are as follows: (1) all waters within 75 yards of the lead safety vessel; (2) all waters within 75 yards of the last safety vessel; and (3) all waters within 100 yards of all other participating vessels, including kayaks, canoes, and paddleboards. Notice of the special local regulations, including the identities of the lead safety vessel and the last safety vessel, will be provided prior to the marine parade by Local Notice to Mariners and Broadcast Notice to Mariners. The special local regulations will be enforced from 12:30 p.m. until 3:30 p.m. on April 28, 2012. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the buffer zones unless authorized by the Captain of the Port Charleston or a designated representative. Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the buffer zones by contacting the Captain

of the Port Charleston by telephone at (843) 740-7050, or a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within any of the buffer zones is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization are required to comply with the instructions of the Captain of the Port Charleston or a designated representative.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

Executive Orders 13563, Improving Regulation and Regulatory Review, and 12866, Regulatory Planning and Review, direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs,

of harmonizing rules, and of promoting flexibility. This rule has not been designated a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has not reviewed this rule under Executive Order 12866.

The economic impact of this rule is not significant for the following reasons: (1) the special local regulations will be enforced for only three hours; (2) although persons and vessels will not be able to enter, transit through, anchor in, or remain within the buffer zones without authorization from the Captain of the Port Charleston or a designated representative, they may operate in the surrounding area during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the buffer zones if authorized by the Captain of the Port Charleston or a designated representative; and (4) the Coast Guard will provide advance notification of the special local regulations to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of

small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit through, anchor in, or remain within that portion of the Ashley River encompassed within the special local regulations from 12:30 p.m. until 3:30 p.m. on April 28, 2012. For the reasons discussed in the Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal

employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk

to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant

effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(h), of the Instruction. This rule involves special local regulations issued in conjunction with a regatta or marine parade. Under figure 2-1, paragraph (34)(h), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add a temporary § 100.35T07-1095 to read as follows:

§ 100.35T07-1095 Special Local Regulations; Patriot Challenge Kayak Race, Ashley River, Charleston, SC.

(a) Regulated Areas. The following buffer zones are regulated areas during the Patriot Challenge Kayak Race: all waters within 75 yards of the lead safety vessel; all waters within 75 yards of the last safety vessel; and all

waters within 100 yards of all other participating vessels, including kayaks, canoes, and paddleboards. The identities of the lead safety vessel and the last safety vessel will be provided prior to the Patriot Challenge Kayak Race by Local Notice to Mariners and Broadcast Notice to Mariners. The race will begin at Brittlebank Park, transit southeast the Ashley River, head north between Shutes Folly Island and the Charleston peninsula, and then turn around in Tidewater Reach. The race will return to Brittlebank Park by the same route.

(b) Definition. The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated areas.

(c) Regulations. (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated areas unless authorized by the Captain of the Port Charleston or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated areas may contact the Captain of the Port Charleston by telephone

at (843) 740-7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated areas is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(3) The Coast Guard will provide notice of the regulated areas by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) Enforcement Date. This rule will be enforced from 12:30 p.m. until 3:30 p.m. on April 28, 2012.

Dated: February 28, 2012

Michael F. White, Jr.
Captain, U.S. Coast Guard
Captain of the Port Charleston

[FR Doc. 2012-6319 Filed 03/14/2012 at 8:45 am; Publication Date: 03/15/2012]